

Before The  
COPYRIGHT ROYALTY TRIBUNAL  
Washington, D.C. 20036

In the Matter of )  
 )  
Distribution of Cable )  
Television Royalty Fees )

REPLY BRIEF OF THE  
PUBLIC BROADCASTING SERVICE

The Public Broadcasting Service ("PBS") submits this Reply Brief in response to a statement made in the "Memorandum of the Joint Sports Claimants" filed with the Tribunal on November 15, 1979. In that Memorandum (in a section entitled "Additional Matters"), the joint sports claimants cursorily question whether the programming of noncommercial educational stations is "non-network" programming and therefore compensable under Section 111 of the Copyright Act.

There are two major reasons why the programming of noncommercial educational stations must be considered "non-network" programming and therefore compensable under the Copyright Act. In the Act, Congress defined three separate types of broadcast stations: a "network station;" an "independent station;" and a "noncommercial educational station." Moreover, in establishing the compulsory license scheme for secondary transmissions by cable systems, Congress separately identified the three different

stations whose signals could be retransmitted and for which signals the cable systems would contribute a "distant signal equivalent" value.<sup>1/</sup> Had Congress intended "network" and "non-commercial educational" stations to be synonymous, there would have been no need (1) to have provided separate definitions or (2) to assign separate values to the three different signals. The fact that the same numerical value was assigned to "network" signals and to "noncommercial educational" signals cannot negate the fact that three different signals were contemplated and accounted for by the Act itself.

A second reason why noncommercial educational programming is "non-network" programming and therefore compensable under Section 111 of the Copyright Act is that most noncommercial educational programming is not being televised nationwide. If it is, it is only because the programming was coincidentally purchased by individual noncommercial educational stations through complicated syndication mechanisms. On the other hand, programming purchased by the ABC, CBS, and NBC networks is virtually assured of being televised nationwide on all of the purchasing network's affiliates. Consequently, there are no "unsold" markets into which a cable system would retransmit the network programming because the programming already was being broadcast nationwide

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<sup>1/</sup> "Independent" signals were assigned a value of one; "network" signals were assigned a value of one-quarter; and "noncommercial educational" signals were assigned a value of one-quarter. 17 U.S.C. § 111.

by virtue of its "network" status. For copyright purposes, therefore, Congress properly assumed that the acquisition price to the copyright owner for network programming includes compensation for nationwide transmission.<sup>2/</sup>

Programming on noncommercial educational stations, however, is not assured of nationwide transmission. In the first place, the broadcast coverage of noncommercial educational stations does not encompass the entire United States.<sup>3/</sup> In the second place, and in contrast to the ABC, CBS, and NBC television networks, there is no single acquiring entity for noncommercial educational programming that can assure program producers that their programs will be broadcast on a nationwide system of affiliate stations.

PBS functions like all other program syndicators and, through complicated syndication mechanisms, obtains programs for distribution to purchasing stations. A significant portion of the programming broadcast on noncommercial educational stations has been obtained through one such mechanism, the Station Program Cooperative ("SPC").<sup>4/</sup> The SPC works in the following manner.

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2/ See H.R. Rep. No. 94-1476, 94th Cong., 2d Sess. at 90 (1976).

3/ See Attachment 1 to this Reply Brief. In those areas where there are no local noncommercial educational stations, the non-commercial educational programming may be offered for sale to local commercial stations.

4/ Another purchasing arrangement is the Station Independence Program ("SIP") in which SIP participants collectively purchase noncommercial educational programming. As is the case with SPC-purchased programming, only purchasers obtain broadcast right to SIP programming.

A program producer develops a program idea, puts together a program budget, and, in some cases, produces a "sample" program. The program proposals to be submitted for station consideration are collected in a catalog which is distributed to participating noncommercial educational stations. Each station then, in effect, votes whether it wishes to purchase the right to broadcast that program in its local service area.<sup>5/</sup>

While some programs are purchased by a large percentage of the participating stations, other programs have difficulty attracting even a minimum number of purchasing stations needed to make the program economically feasible. Some programs cannot attract enough purchasing stations and are dropped from the SPC after a specified number of "rounds" or opportunities for purchase. After the formal "rounds" of bidding under the SPC have ended, programs that have attracted a sufficient base of purchasing stations are again offered to stations that declined to purchase them during the SPC. In markets where such programs were not purchased by any local noncommercial educational station, or where there is no local noncommercial educational station, the programs may be offered for sale to local commercial stations.

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<sup>5/</sup> Because the noncommercial educational stations' purchasing methods are tailored to meet individual stations' needs, it is rare that two noncommercial educational stations' broadcast days will contain the identical mix of SPC- or SIP-purchased programming, regional programming, locally-produced programming, or programming from any other source. The same cannot be said of network stations' broadcast days.

It would be a significant disincentive to purchase noncommercial educational programming in the SPC or post-SPC if the programming were going to be made available in the prospective buyer's service area by virtue of cable retransmission of that programming. Compensation under the Copyright Act, then, is clearly appropriate in return for the retransmission of this syndicated noncommercial educational programming just as it is for retransmission of commercially syndicated programming.<sup>6/</sup>

The means of distributing the programming is not dispositive of the "network"--"non-network" issue. In view of current satellite distribution capability, television program syndicators, sports interests, independent stations, network stations, noncommercial educational stations, and networks all have nationwide distribution capabilities.<sup>7/</sup> This obviously cannot mean that all the programming distributed by means of improved technology to selective purchasers becomes "network" programming by virtue of that national distribution capability of the seller.

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<sup>6/</sup> SPC or SIP programming is clearly a form of syndicated programming in that it is available for televising only by the purchasing stations. Yet commercial stations (either network stations or independent stations) can protect their purchased rights in syndicated programming by availing themselves of the applicable Federal Communications Commission's syndicated exclusivity rules. See 47 C.F.R. § 76.151 et seq. But syndicated program exclusivity protection is not available to noncommercial educational stations. Reconsideration of the Cable Television Report and Order, 36 F.C.C.2d 326, 341-42 (1972). Thus, even assuming arguendo that those rules provide some protection for commercial stations, they provide none for noncommercial educational stations.

<sup>7/</sup> See "Communications Satellites: The Birds Are In Full Flight" in Broadcasting Magazine at pages 36-47 (November 19, 1979). Attachment 2 to this Reply Brief.

In summary, given the fact that Congress treated noncommercial educational stations differently than network stations, the Tribunal should not negate Congress' action by treating the two as the same. In view of the significantly different acquisition or purchasing mechanisms for noncommercial educational programming, the compensation intended under Section 111 of the Copyright Act for syndicated programming is clearly appropriate for noncommercial educational programming.

Respectfully submitted,

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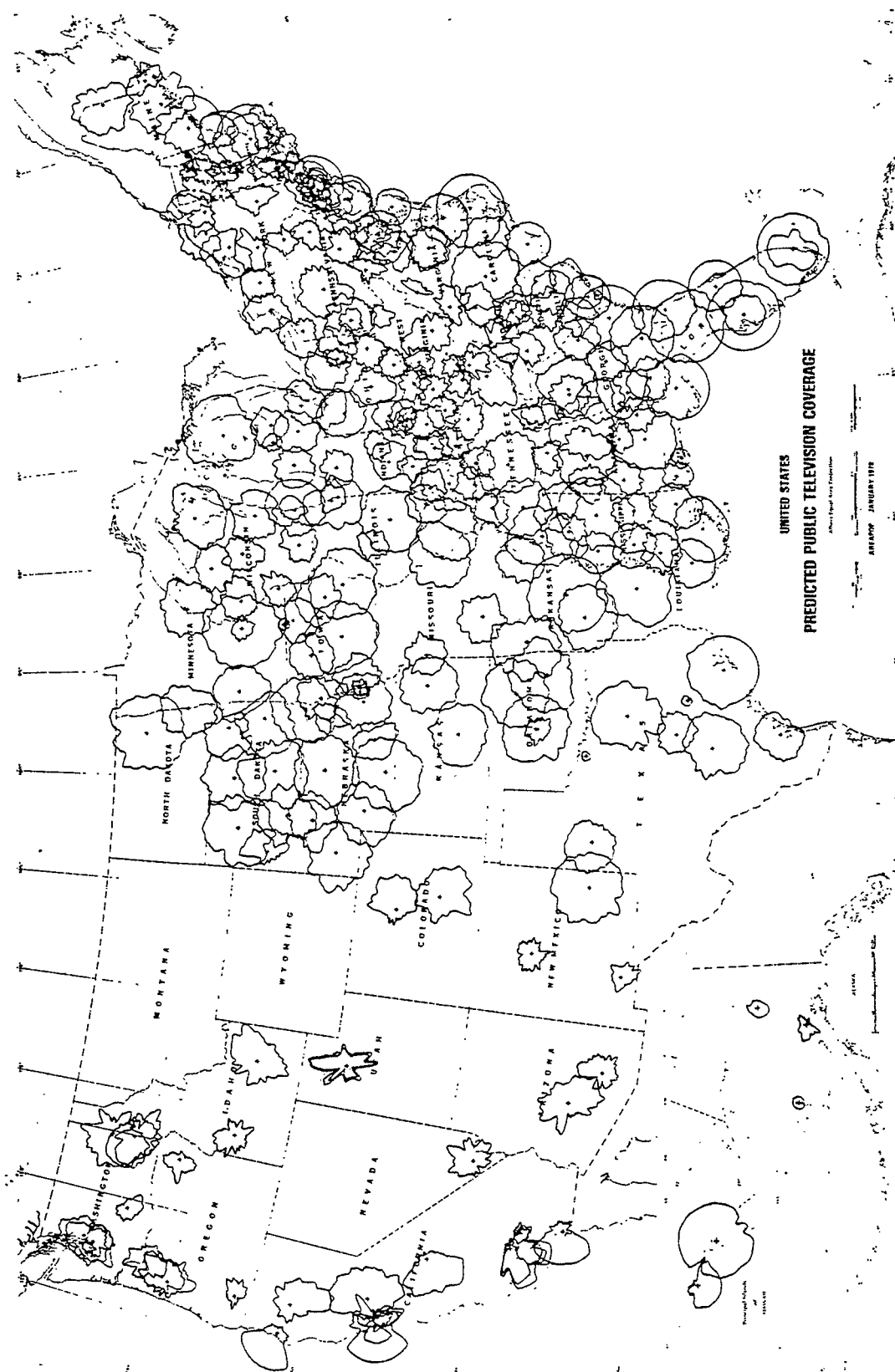
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November 28, 1979

Attachment I

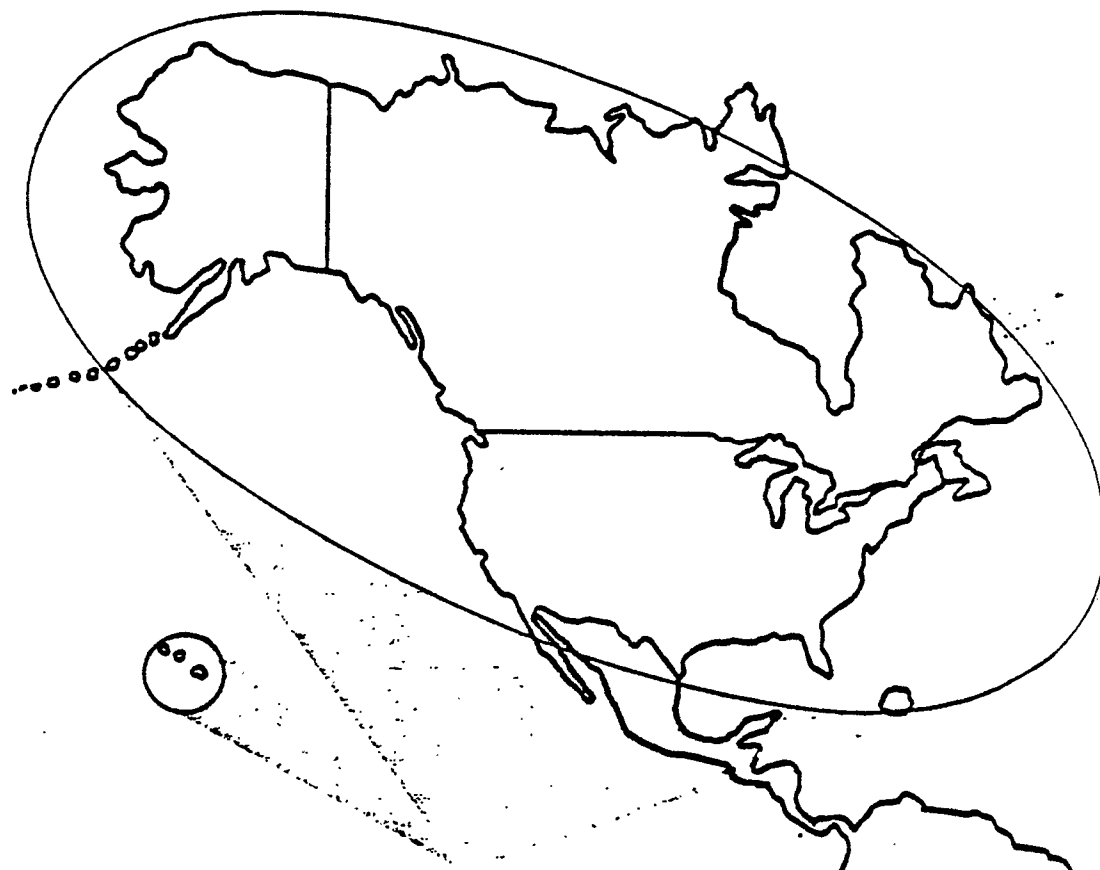


UNITED STATES  
PREDICTED PUBLIC TELEVISION COVERAGE

As of 1970

ARABY JANUARY 1970

Attachment II



Satcom I	*Satcom III	Comstar I	Westar II	Satcom II	Westar I	Comstar II	Westar III	Comstar III	**Satcom IV
135°	132°	128°	123.5°	119°	99°	95°	91°	87°	83°

\* Launch date December 1979

\*\* Launch date June 1981

## Communications satellites: The birds are in full flight

**Demand is outstripping supply as more and more broadcast services look to the skies for transmission**

Nothing has had a greater impact on the transmission of radio and television signals in the United States over the last five years—and perhaps all electronic communications—than the widespread application of domestic, geostationary communications satellites.

Today there are eight of these satellites in orbit, with more planned for the near future. Each is equipped with transponders—devices that receive a signal and relay it back to earth and are capable of providing numerous video, audio and data channels to broadcasters, cablecasters, telephone companies and myriad business and government users.

For some the advances in satellite tech-

nology mean only a more economical alternative to conventional means of transmission, but for others satellites have a much greater importance, opening the door to a new world of services that may render obsolete some of the conventional services of today.

The one thing that is holding back the development and further proliferation of satellites is the technical problems that limit the number of satellites that can be put into orbit to serve the United States. Since there is a limitation imposed by nature and present technology, satellite space is becoming scarce.

There are currently three companies that have launched satellites in geostationary orbit—RCA Americom, Western Union Telegraph Co. and Comsat General—and a survey of these companies and their customers indicates that transponder

use is nearing capacity.

Although RCA Americom has been the satellite company of choice for the cable television industry since 1975, RCA has stayed involved with broadcasting, government and business users of domestic satellites. With the launch of its third 24-transponder satellite, scheduled for Dec. 6, RCA hopes to provide greater satellite capacity for broadcasters and others.

RCA's Satcom I, launched in December 1975, now serves the cable industry, with the exception of few transponders used for commercial message traffic. Since 1975 the satellite has quickly filled with resale carriers and program distributors whose primary purpose is to send programming on a pay or advertiser-supported basis to an estimated 4.5 million cable subscribers.

□

The biggest user of Satcom II, launched

Transponder	Program Service	Distributor	Hours programed/day	Transponder	Program Service	Distributor	Hours programed/day
1	KTVU Oakland, Calif.	Satellite Communications Systems (owned by Warner Communications)	24	15	Message traffic		
2	PTL TV Network	PTL	24	16	Showtime Plus Sports	Showtime Entertainment	Seasonal
3	WGN-TV Chicago	United Video	24	16	Appalachian Community Service Network	Appalachian Regional Commission	4.5
3	WFMT(FM) Chicago	United Video	24	17	WOR-TV New York	Eastern Microwave (sub-leased from Showtime)	24
4	Out (failed on launch)			18	Reuters News Service	Reuters	12
5	Star Channel	Warner Cable	24	18	GalaVision	Spanish International Network (sub-leased from Reuters)	9 M-F 12 Sat-Sun
6	WTBS Atlanta	Southern Satellite Systems (owned by Satellite Syndicated Systems)	24	19	Message traffic		
6	UPI Newstime	Southern Satellite Systems	24	20	Total Communications Systems	TCS	20-25 hrs/wk
7	ESPN	Entertainment and Sports Programing Network	24	20	Home Box Office (spare and in-house)		
8	Chrstian Broadcasting Network	CBN Satellite Services	24	21	Home Theater Network	Satellite Syndicated Systems	2 M-Sat
9	Madison Square Garden Sports	UA Columbia Satellite Services	Seasonal	21	Satellite Program Network	Satellite Syndicated Systems	22 M-Sat 24 Sun
9	Calliope	UA Columbia Satellite Services	1 M-F	21	JASIL	Satellite Syndicated Systems	24
9	Thursday Night Baseball	UA Columbia Satellite Services	Seasonal	21	Disco Network	Satellite Syndicated Systems	24
9	C-SPAN	C-SPAN (sub-leased from UA Columbia)	Approx 7 M-F	22	HBO West	HBO	Approx 12
10	Showtime West	Showtime Entertainment	Approx 9 M-F 12 Sat-Sun	22	Modern Cable Programs	Modern Talking Picture Service (sub-leased from HBO)	5
11	Nickelodeon	Warner Cable	13-14	23	HBO Take 2	HBO	6
12	Showtime East	Showtime Entertainment	Approx 9 M-F 12 Sat-Sun	24	HBO East	HBO	Approx 12
13	Trinity Broadcasting	TBN	24				
14	Message traffic						

**The cable satellite.** With Home Box Office leading the way in 1975, Satcom I quickly filled with cable programmers each seeking to serve cable systems on an advertiser-supported or pay basis. Twenty of 24 transponders on the satellite are used for the distribution of cable television programming. Through time-sharing arrangements or subcarrier usage, more than one service can be offered on one transponder. Four different

services, for example, are offered over transponder 9, leased to UA-Columbia Cablevision—Madison Square Garden sports, Calliope, Thursday Night Baseball and C-SPAN—and, starting this January, a fifth will be added, Black Entertainment Television. A few of the Satcom users, including Trinity Broadcasting and the Christian Broadcasting Network, distribute programming to television stations as well as to cable systems.

in March 1976, is Alascom Inc., which serves the state of Alaska with telephone and broadcast communications. Alascom has taken over this function from RCA Alaska Communications, which was sold to Pacific Power & Light Co. earlier this year. The majority of Alascom's satellite time is used for message toll service within Alaska and to and from the contiguous states, but it also uses a transponder to feed network television daily into Anchorage from an uplink outside Los Angeles.

Satcom II is also used on a regular basis by NBC-TV for feeds between New York and Los Angeles, and on an occasional basis by ABC-TV and CBS-TV. NBC's *Tonight Show* is fed to New York from Burbank, Calif., every evening via Satcom

II, and the network also uses the satellite up to 10 hours a day for news and sports feeds, as well as other types of programming.

The ability of Satcoms I and II to serve broadcasting, government and business users with message and video/audio services will increase when Satcom III is added to the system. Cable programmers leasing transponders on Satcom I are expected to transfer to the same transponder numbers on Satcom III, which will be an all-cable bird. According to RCA, four transponders on Satcom I—4, 14, 15 and 19—not currently being used for cable traffic will be assigned to HBO, Showtime, Southern Satellite Systems (for transmission of the Cable News Network) and the National Christian Network on Satcom III. The assignments of these transponders

are still in question ("Closed Circuit," Nov. 12). In response to filings made by Eastern Microwave and Spanish International Network's GalaVision, the FCC has directed RCA to turn over certain information so that it can determine whether RCA discriminated against GalaVision and Eastern Microwave in the assigning of the transponders.

RCA plans to use nine transponders on the freed-up Satcom I as a "second cable network." Those transponders have been assigned by RCA, with four of them going to the Entertainment and Sports Programming Network; Total Communications Systems, a new firm based in Pittsburgh; United Video, and the Satellite Communication Network, a new resale carrier, based in New York. The other five

customers lined up by RCA have asked not to be identified, RCA said.

The balance of Satcom I and Satcom II will be used for further commercial voice and data, government and broadcasting traffic. Business users of the Satcoms for message traffic include IBM, Exxon, Holiday Inns, ITT, various insurance companies and brokerage houses and Japanese trading companies.

RCA has developed a digital audio distribution system with which it hopes to attract radio broadcasters to the Satcoms. It will also "attempt to penetrate the broadcast market" with its proposed SMARTS system, which would utilize three transponders on Satcom II, according to Walter Braun, director of engineering for RCA Americom. The SMARTS plan, which

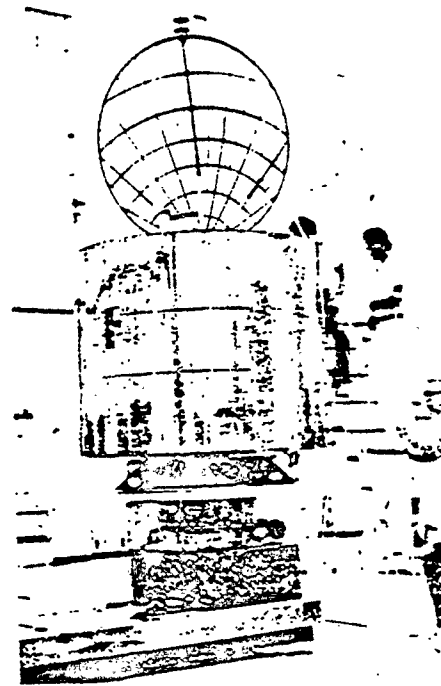
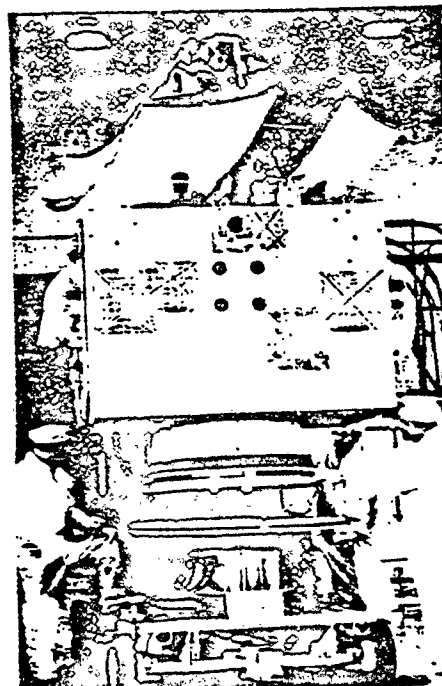
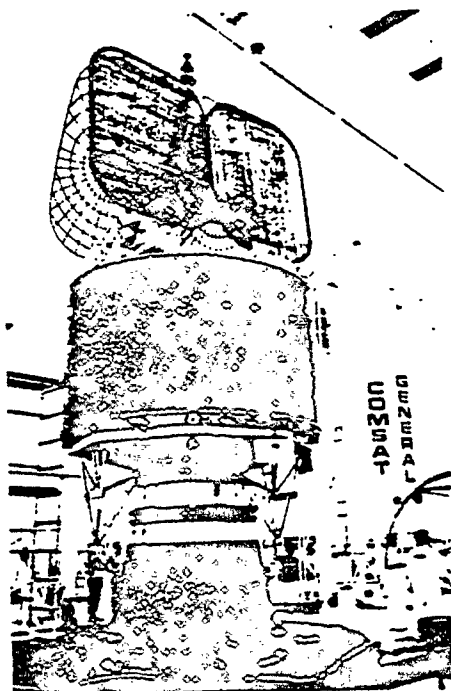
Fairchild Industries and Continental Telephone in exchange for needed capital (BROADCASTING, Nov. 5).

The three major users of broadcast time on the Westar system (which includes all but the Advanced Westar) are CBS-TV, Hughes Television Network and Robert Wold Co. Each has signed long-term commitments with Western Union by which they agree to buy a minimum dollar volume of time each year in exchange for lower hourly rates. Each has agreed to purchase an average minimum of \$950,000 worth of satellite time each year over the next three years. In exchange for this commitment, they can buy time at rates substantially cheaper than the occasional user can. If it also promises to buy five hours per day and to schedule the

regularly scheduled newscasts.

Wold and Hughes are rare birds in the satellite world. Although each produces some of its own programming and uses a small portion of its satellite time for distribution of that programming, both resell most of their satellite time as part of their broadcast production and transmission business.

Since a large portion of their business is resale, the question arises: Why aren't they classified by the FCC as common carriers and subject to the rules and regulations of common carriers? The answer is not simple. The FCC permits satellite customers to resell time if they don't make a profit, but, as one FCC attorney said, the determination of what constitutes a profit is not an easy one to make. According to



**Birds of a feather.** The three major commercial, communications satellite companies are represented in these earth bound pictures (l to r): Comstar I, prior to its launch in July 1976; Satcom III, due for launch

on Dec. 6, and Westar III, launched in August. The Comstar and Westar satellites were built by Hughes Aircraft and the Satcoms by RCA's own Astro-Electronics plant in Princeton, N.J.

RCA hopes to begin testing by early next year in cooperation with Viacom and four Post-Newsweek television stations, calls for RCA to supply and install seven-meter receive-only terminals at television stations for the reception of syndicated programming.

What RCA Americom is to the cable business, Western Union Telegraph Co. is to the broadcasting business.

The company currently has three Westar satellites (I, II, III) in orbit, each with 12 transponders. Plans call for the launch of an additional satellite, Westar IV, in late 1981 or early 1982 and an "Advanced Westar" with 12 transponders as well as additional wide-band capacity at a higher frequency, scheduled to fly sometime in 1983. Western Union has, however, agreed to relinquish control over a good portion of its satellite capacity to

time 90 days in advance. Hughes, for example, pays only \$107.50 for the first half hour of time and \$53.75 for each succeeding quarter hour during prime time. This rate is further reduced if Hughes or its customer supplies its own earth facilities.

The bad news for these bulk users is that Western Union filed tariff revisions at the FCC on Oct. 5, increasing the rates for the bulk users as well as the occasional users. If the FCC doesn't suspend or reject the revisions by Jan. 3, 1980, as the three have all urged the FCC to do, the higher rates will go into effect.

CBS-TV has been using the Westar system ever since the first two Westars were launched in 1974. The network uses the time for sports programming, news and occasional live broadcasts. The news use primarily entails sending taped reports back to New York for incorporation into

Theodore Waddell of the FCC, Hughes filed a request for a declaratory ruling by the FCC in August 1977 asking simply whether or not it is a common carrier. The FCC has yet to make that ruling.

Whether common carrier or just another satellite user with a lot of time to resell, it is necessary to look at the customers of these two companies to discover the real users of Westar's satellite capacity and ground station facilities.

Wold resells its time—it estimates it buys 6,000 hours of TV time and 3,500 hours of radio time each year—to broadcasters, cable operators, subscription television operators and MDS operators. Its principal clients, however, are broadcasters. ABC-TV leases or buys from Wold six-and-a-half to seven hours a day. It uses that time to distribute its early-morning *Good Morning, America*, to re-

ceive feeds from Chicago and Los Angeles for the nightly news, to transmit live sports events, and for other uses as needs arise. A spokesman for ABC said that the network turns to Satcom 1 when time is unavailable through Wold.

Although the Public Broadcasting System now leases four transponders directly from Western Union for distribution of its programming to member stations, it still uses Wold services for transmission of some sports and news events.

UPITN uses Wold time for one link in the transmission of its daily news report from New York. The report is sent from New York to San Francisco via Wold-Western Union and then sent back to an Intelsat satellite over the Pacific Ocean and picked up in Tokyo and Hong Kong.

Wold also provides its services to the Entertainment and Sports Programming Network, whose programming is sent out over Satcom 1, transponder 7. ESPN transmits sporting events of the National Collegiate Athletic Association to its cable customers and uses the time bought from Wold and the necessary terrestrial lines to bring the games back to ESPN's "head end" in Bristol, Conn.

Another major client of Wold is the Independent Television News Association, the nightly news network serving 21 independent stations around the country. For its news feeds, ITNA buys from one-and-a-half to two hours of time, Monday through Friday, and a half hour on Saturdays and Sundays. Eight affiliates of the network receive the feeds via Western Union-owned downlinks and 14 via privately owned downlinks.

Wold also sells time to NBC-TV, which uses the satellites of its parent RCA for most of its occasional-use time; the Public Service Satellite Consortium, TVS Network, National Hockey League Network, All-American Network and a number of individual radio and television stations. The major television network affiliates in Hawaii use time purchased from Wold and the earth station of a Wold subsidiary, Satellink, to pick up the network feeds on the mainland. Robert Patterson of Wold said that Wold's satellite time and services are available to "anyone who has need to distribute live programming." He added that Wold is developing a teleconferencing service. As an example, he cited the convention of the World Soybean Association in Atlanta last August at which, through the facilities of Wold, those in attendance could discuss the state of soybeans with persons in London, Tokyo and Rio de Janeiro.

The Hughes Television Network offers services similar to those of Wold. Hughes provides an array of technical, production, networking and satellite interconnection services. The satellite segment of its service is made possible through its long-term arrangement with Western Union and some occasional time on the Satcom satellite. It has one major client, the Spanish International Network.

SIN transmits via satellite 100 hours per week of Spanish-language programming to

10 affiliated television stations and six program buyers. Five of the affiliates pick up the SIN signal through their own earth stations and the others through land lines linked to the five stations with earth stations. According to SIN's president, Rene Anselmo, because of the large amounts of time it is using, SIN would like to circumvent Hughes and buy a full transponder direct from Western Union when its present contract with Hughes expires.

A large portion of Hughes's business is made up of professional sporting-event transmissions. John A. Tagliaferro of Hughes said that Hughes transmits hundreds of baseball, basketball and hockey games played on the road back to the holder of the television rights in the home town. For this service, earth stations and land lines are usually leased from Western Union or other common carriers. If, however, the customer has its own earth station—as does Storer Broadcasting—the signals are sent directly to the customers.

As a subsidiary of the newly formed Madison Square Garden Communications Network, Hughes will be assisting in the production and satellite transmission of MSGCN's sports programming, which already includes coverage of the National Invitational Basketball Tournament and the television rights to the Eastern Eight college basketball league.

According to Tagliaferro, Hughes provides many "miscellaneous" services such as the coordination of special networks, distribution of syndicated programming and closed circuit television. Examples of the special networks Hughes creates are the annual Jerry Lewis muscular dystrophy telethon and Ronald Reagan's announcement of his candidacy for the Presidency last Tuesday (Nov. 13). Customers of the closed-circuit services are mostly businesses.

Western Union's other major customer is the Public Broadcasting Service. Through funding from the Corporation for Public Broadcasting, PBS became an all-satellite system in December 1978, using transponders 8, 9 and 11 on Westar 1. In accord with the Western Union tariff designed specifically for PBS, the system has exercised an option and will put a fourth transponder into full-time service on Jan. 1, 1980. The PBS system includes 148 receive-only earth stations, with the main uplink in Bren Mar, Va., and regional uplinks in Hartford, Conn.; Columbia, S.C.; Tallahassee, Fla.; Lincoln, Neb., and Denver. A seventh uplink is planned for the West Coast. According to James Ragan, vice president of Western Union, PBS is paying \$800,000 per year for each of the first three transponders and will pay \$750,000 per year for the fourth.

Radio broadcasters using satellites have for the most part gone to Western Union for service. The Mutual Broadcasting System, National Public Radio, the RKO Radio Network, AP Radio, UPI Radio, the Physicians Radio Network and ABC, CBS and NBC radio networks are all making some use of the Westars.

Mutual is installing receive-only earth stations in the top-200 radio markets and expects to begin transmitting to the "dozens" it has in place by early 1980. Six hundred and fifty Mutual earth stations are expected to be in service by April 1981.

Mutual will use six channels on Westar 1, transponder 2, when its system becomes fully operational. It is currently using only three of its channels to broadcast from Washington to regional offices in Dallas, Chicago and Los Angeles.

NPR is also in the process of installing earth stations at member stations nationwide and plans to complete construction of 150 receive-only dishes and 17 uplinks by May 1980. Using 2 channels on transponder 2, Westar 1, NPR has been transmitting since Oct. 1 to the 20 or so affiliates with antennas already installed. NPR expects to be using four channels on that transponder by Jan. 1 and has an option with Western Union to expand to 20 channels as needed. The NPR system will allow sharing of programming generated by any of its over 200 affiliates, and will be available to any producer or distributor of noncommercial radio programming.

RKO and AP Radio have an agreement to share earth stations and satellite time on Westar 1. The plan for their shared system calls for 15-foot dishes in 50 cities. APR has been testing on Westar 1 and has not announced when it will move to the satellite for all its audio and data transmissions. RKO has been broadcasting newscasts since Oct. 1 via Westar 1 to the 12 radio stations it owns, using Western Union uplinks and downlinks. RKO hopes to be on satellite 24 hours a day by Feb. 1, 1980, and plans to have over 100 affiliates in its radio network by the end of 1980, receiving news, sports and feature programs.

UPI plans to rely on satellite transmission for all its audio and data feeds and to be totally off the AT&T facilities it currently uses by June 1981. The news service has been testing on both Westar 1 and Satcom 1, with 14 small-aperture six-to-eight-foot earth stations nationwide, and may use both satellites when its three-phase plan is fully operational. The three phases call for the first satellite service to 606 broadcasting (mostly radio) customers who receive both audio and teletype transmissions, and later satellite hookups for UPI's 1,140 newspaper clients and then 3,100 broadcasters who now receive only UPI newswire but, because of reduced costs using satellites, will also be able to receive audio news. Implementation should begin by July 1980 and UPI hopes that all of its customers will be reached by satellite by mid-1982.

ABC, CBS and NBC radio networks all use the Westar birds as well as Satcom satellites to carry feeds from and into New York. All three go through RCA for transmissions between New York and Los Angeles, and Western Union carries them between New York and Chicago.

The Physicians Radio Network is a medical news and information service

## Key figures on the satellite landscape



By his own account, **Roy Bliss** has been "in and out of the cable business" all his life. Even his father owned cable systems in Wyoming and Illinois. So it's no surprise that Bliss is today serving the cable industry as executive vice president of United Video.

United Video's primary product is WGN-TV Chicago, which it distributes to cable systems over Satcom I. WGN-TV, he says, has a love-hate relationship with United Video. "They love the exposure and additional viewers, but don't like the heat they get from the producer side."

Bliss went to Tulsa and United Video when it was still a subsidiary of United Cable. He and Ed Taylor, now a competitor as head of Southern Satellite Systems, worked together there and built a 6,000-mile microwave system. Taylor went to Southern Pacific Communications Corp. when United Video sold its voice data network to SPCC and Bliss remained with United Video, staying on after it was sold to Lawrence Flinn in 1976.

Though he represents a common carrier, Bliss feels it isn't the carriers that have the most to gain from the continued expansion of satellite capacity and use. "The people who will benefit most will be the software producers... an incredible amount of material can be transmitted over one satellite."

Ten years out of the University of Pennsylvania and just 32 years old, **Joseph Cohen** heads a diverse communications business, serving



both cable and broadcasting, as president and chief executive officer of Madison Square Garden Communications Network, the television arm of the Madison Square Garden Corp.

As Cohen explains it, MSG Communications Network is actually four companies: Madison Square Garden Cablevision, which packages 125 Madison Square Garden events annually for cable systems in the New York metropolitan area; the joint venture of MSG Cablevision and UA-Columbia Cablevision, which transmits "in excess of 250" Madison Square Garden events to cable systems throughout the United States via Satcom I; MSG Television, which holds the rights to various sporting events and Hughes Television Network, the multi-faceted producers and satellite carrier that has a bulk time arrangement with Western Union.

Because of the range of services the various entities provide, Cohen thinks that his company is in a "unique" position to exploit any opportunity that might arise in the cable or television business. "We think that our position in the cable and television industry combines to make us something special," he says.

**Andrew Inglis** arrived in his position as president of RCA Americom in January 1977. To get there, he spent 24 years at RCA in a variety of positions. He has served as manager of broadcast studio planning, studio systems, closed circuit TV, broadcast



merchandising and engineering and as vice president of communications products, engineering and merchandising, broadcast systems, commercial electronic systems and commercial communications systems.

RCA is in head-to-head competition with Western Union for the lucrative broadcast and cable business. By securing the contract for Home Box Office, RCA Americom took the lead in service to the cable industry, but it has been outrun in the race to win broadcast customers.

To lure the broadcaster to the Satcoms Ingis and RCA have been busy promoting their SMARTS system and have presented NBC-TV with a proposal offering to augment the network's terrestrial system with the power of satellites.



That Satcom I is today the satellite of the cable industry is due in no small part to the pioneering efforts of Home Box Office and **Gerald Levin**. As chief executive officer of HBO in 1975, Levin moved HBO, which had

transmitted over Westar out of New York to 23 widely dispersed FM radio stations, which send it out over subcarriers.

Western Union, like Hughes and Wold, has its own miscellany of customers. They include the Satellite Business Systems, which is testing some of its facilities in anticipation of launching its own satellites for the transmission of digital data information; the Public Service Satellite Consortium, provider of teleconferencing and the distributor of health and educational programming for its membership, and several publishing concerns.

*Time* magazine is currently using satellite space on Westar II six or seven days a week, four or five hours a day for data facsimile transmissions from New York to Los Angeles. *U.S. News and*

*World Report* also has full-time access to three voice-grade channels on Westar. It's using its time to send data to remote printing plants in Los Angeles, Old Saybrook, Conn., and Chicago. *The Wall Street Journal* also uses the Westar system for transmission of high-speed data used in printing the daily business paper. The *Journal*, however, buys its time through the American Satellite Corp.

The American Satellite Corp., Germantown, Md., is the only large business communications customer of Western Union, and if a couple of deals made this fall get the stamp of approval from the FCC, it will become a part owner of Western Union's satellite operations, entitled to a substantial portion of the precious satellite time. Last August, Fairchild Industries and

Continental Telephone of Atlanta agreed to operate American Satellite as a joint venture, and last month Fairchild and Continental helped insure the future of American Satellite by buying a 20% share of the Westar system (Westar I, II, III and IV) and a 50% share of the Advanced Westar. American Satellite already leases substantial amounts of time on transponders 3, 5 and 7 of Westar I, which it uses to provide voice, data, facsimile and other wide-band communication services for primarily business applications.

On the drawing board for Western Union are agreements with Westinghouse Broadcasting, Video Communications Inc. and Muzak. Under an agreement announced last July (BROADCASTING, July 30) Westinghouse and Western Union will

been serving cable systems via microwave since 1972, to satellite and answered "the chicken or the egg" question. As a result of that move, cable systems installed earth stations and programmers lined up to buy satellite time.

Today Levin is a group vice president of Time-Life, responsible for four other operations—Manhattan Cable, American Television & Communications Corp., WOR-TV Grand Rapids, Mich., and Time-Life Films—as well as HBO.

And Levin has no intention of resting on his laurels—one of which is the 1979 Beisswenger Award of the National Cable Television Association. "We are not only interested in putting up pay-cable service, but also services for basic cable," Levin said. He said that programming for such an advertising-supported service would probably come from the Time-Life Films division.

Levin joined HBO in 1972 as vice president of programming after several years with a New York law firm and an international management and consulting firm.



**James Ragan**, vice president of broadcasting services for Western Union, sees satellites as a programming tool. "If you look at satellites as just an economic alternative, you miss the significance of satellites to the broadcasting community," he says. "The creative people are no longer bound by a distribution system."

Ragan has been in his present position since 1976 when the satellite business as a whole began proving itself as an economical and reliable means of delivering cable and broadcast signals.

He began his career with General Electric,

ending his 15-year stint there with a job description that sounds like a perfect preparation for his present employer: "future business planning for the spacecraft department." He has also had a taste of problems at the other end of satellite transmissions. He operated cable systems for Gulf & Western and TCI.

Besides the programming opportunities that satellites make possible there is one other thing that he feels cable and broadcasting companies should be grateful for—competition. "This is a highly competitive business. We want to get into the cable side and RCA wants to get into broadcasting." The winner of such competition can only be the consumers, he said.



In 1976 when the long arm of the FCC threatened to come down on Ted Turner and his plans to be both broadcaster and common carrier by putting his WTCN-TV Atlanta (now WTBS) on a satellite for cable distribution, Turner sold the carrier company, Southern Satellite Systems, to **Ed Taylor** for \$1. Taylor, operating as a common-carrier independent of Turner, carried out Turner's plans and made the lowly UHF into a "superstation."

But Taylor didn't stop there. Acquiring another full transponder on Satcom I, Taylor started the Satellite Program Network, which offers advertiser-supported programming to cable systems; added the slow-scan UPI news service to the subcarrier of the superstation transmission; and will begin carriage of another of Turner's projects, the Cable News Network, next summer if all goes according to plans. According to Taylor, his company also

plans to get into the subscription television business. He said the company already has been awarded a construction permit for a UHF station in Ann Arbor, Mich., and there are three more pending.

Taylor's background includes work at AT&T, United Video (while it was still a subsidiary of United Cable) and Western Union.



**Robert Wold**, president and owner of the company of the same name, is a program packager. Through his company's bulk-time arrangement with Western Union, Wold takes the programming of its clients, set up land and satellite connections and delivers it wherever its clients wish.

Wold's principal satellite networking rival is the Hughes Television Network, which led the way in specialized TV interconnections (on a terrestrial basis) before Wold expanded his own business skyward when satellites became available. Both companies are now about even in terms of annual transponder hours.

Wold is credited with the first satellite broadcast of a live commercial program—a baseball game between the Milwaukee Brewers and the Texas Rangers on Aug. 9, 1975. That telecast has opened a door on a plethora of broadcasting services that have yet to be counted or—it can be said—imagined.

Wold taught himself the rudiments of programming when, as a salesman at WBBM(AM) Chicago in the early fifties, he put together programming for his clients and as an advertising executive later on, when he set up a network of 40 radio stations in six states to broadcast the baseball games of the Minnesota Twins.

share Western Union's ground facilities as well as Westinghouse-built earth stations in Washington and Los Angeles. Westinghouse plans to use the system to exchange programs among its various television stations as well as satellite distribution of other stations of syndicated programs produced by its Group W Productions. Video Communications, Tulsa, Okla., signed a deal to send movies, news and sports, and other entertainment programming to industrial personnel in remote and isolated areas of the world. Video Communications will transmit 12 hours a day in its initial service and increase that number to 24 by the end of 1980. Western Union has been given a \$2.8-million contract to provide Muzak, the New York music programmer, with satellite transmis-

sion services. Muzak will install 500 receive-only earth stations so that its franchise can receive the music via Western directly from its New York production facilities.

Comsat General Corp. is also in the domestic satellite business with its three Comstars, which are leased to AT&T. AT&T currently uses the satellites for telephone and government private line services. GTE Satellite Corp. also leases space on the Comstars through AT&T to provide message toll, government and business communications channels. At present the only broadcasting service offered by AT&T and GTE on the Comstars is the transmission of network television programs to Hawaii. As of last July 23, when an FCC moratorium that

restricted AT&T's and GTE's use of the Comstars was lifted, the two companies were free to offer further broadcast services on the satellites (BROADCASTING, July 30.) The telephone companies have yet to indicate their plans for future uses of the Comstars.

Comsat has announced plans for direct satellite-to-home pay television services for possible introduction by 1983 (BROADCASTING, Aug. 6). The system would involve three new satellites and small, inexpensive roof-top receiving antennas. Comsat envisions providing programming, free of commercial interruption, that could consist of movies, sports events, educational and cultural material, data and text transmission for a monthly fee to subscribers.

CERTIFICATE OF SERVICE

I, Carol A. Moore, a secretary in the law firm of Arent, Fox, Kintner, Plotkin & Kahn, do hereby certify that I have, this 28th day of November, 1979, sent copies of the foregoing "Reply Brief of the Public Broadcasting Service" by first class United States mail, postage prepaid, to the parties on the attached list.

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